

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 21-86

Date Received: 02 August 21

Title: Batch #6 Procurement Guidance

Initiator Name: Tim Eckert

Initiator Organization Name / Routing Code: Procurement Policy Branch, AAP-110

Initiator Phone: 202.267.7527

ASAG Member Name: Monica Rheinhardt

ASAG Member Phone: 202.267.71440

Policy and Guidance: (check all that apply)

- ☐ Policy
- ☒ Guidance
- ☐ Procurement Forms, Templates and Samples
- ☐ Real Property Templates and Samples
- ☐ Procurement Clauses
- ☐ Real Property Clauses
- ☐ Other FAST Tools and Resources

Summary of Change:

Revisions to Guidance associated with PROACT revisions to Forms, Templates, Samples, Checklists, and Tools and Resources. Includes general revision and update to Guidance on ratification of unauthorized commitments (T3.1.4A.6). Also, T1.15 language added to clarify threshold for legal review for Brand Name Mandatory procurements.

Reason for Change:

Ensure compliance with AMS policy/guidance and provide user-friendly products on FAST for efficient and effective use by the AAQ community. The revisions to the ratification of unauthorized commitments guidance are necessary to ensure this guidance is as complete and as clear as possible owing to its' importance.

Development, Review, and Concurrence:

AFM-800, AHR-120, AHL-100, AAP-110, AAP-100, AAQ, and AGC-530

Target Audience: Acquisition workforce

Briefing Planned: No.

ASAG Responsibilities: ASAG electronically approved T3.1.4.

Section / Text Location: T1.15, T3.1.4, T3.1.5, T3.1.6, and T3.2.1

The redline version must be a comparison with the current published FAST version.

☐ I confirm I used the latest published version to create this change / redline

or

☒ This is new content

Links:

<https://fast.faa.gov/docs/procurementGuidance/guidanceT1.15.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.1.4.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.1.5.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.1.6.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.1.pdf>

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s):

Section Revised: T1.15 – Legal Coordination Guidance

Procurement Guidance - (~~7/2021~~9/2021)

[T1.15 - Legal Coordination Guidance](#)

[A Legal Coordination Guidance](#)

[1 Introduction](#) Revised 9/2020

[2 Applicability](#)

[3 Definitions](#) Revised 9/2020

[4 Coordination Guidance](#) Revised ~~9/2020~~9/2021

[5 Representation](#)

[6 Exceptions and Waivers](#) Revised 9/2020

[B Clauses](#)

~~C Forms~~

[C Procurement Forms](#) Added 9/2021

[D Procurement Samples](#) Added 9/2021

[E Procurement Templates](#) Added 9/2021

[F Procurement Tools and Resources](#) Added 9/2021

T1.15 - Legal Coordination Guidance

A Legal Coordination Guidance

1 Introduction Revised 9/2020

- a. FAA acquisition actions can raise significant legal issues. For example, although pursuant to 49 U.S.C. §40110, FAA is exempt from federal acquisition laws and regulations, other statutes and court decisions require FAA to demonstrate a rational basis, supported by substantial evidence, for acquisition actions. In addition, many laws and regulations enacted for purposes other than procurement apply to FAA acquisitions. Please refer to AMS Policy Appendix E for a list of all applicable laws and regulations.
- b. Therefore, the service organization will coordinate acquisition actions with FAA counsel on an ongoing basis throughout the acquisition lifecycle. It is the responsibility of agency counsel to represent FAA's legal interests within the service organization and, exercising independent professional judgment, advise the service organization concerning legal issues, including, the legality and integrity of acquisition actions, and represent the service organization in litigation and other legal matters.

2 Applicability

This Guidance applies to all FAA acquisition matters, at all stages of the acquisition lifecycle.

3 Definitions Revised 9/2020

- a. As used in this Guidance, the term "agency counsel" means:
- (1) for acquisition matters arising at, or referred to, Headquarters, the Assistant Chief Counsel, Acquisition and Fiscal Law Division,; and
 - (2) for acquisition matters arising at, or referred to, a Region or Center, the responsible Regional or Center Counsel.
- b. As used in this Guidance, the term "Coordinate" means: soliciting the opinion and recommendations of agency legal counsel reasonably prior to taking acquisition actions, i.e., after providing agency counsel accurate and complete information in sufficient time for review and the provision and legal advice.
- c. As used in this Guidance, the term "Service Organization (s)" means: plan and manage resources, as assigned, to deliver services within their area of responsibility. Within the FAA, service organizations include any service unit or team, program office, directorate, or other organizational entity engaged in the delivery and sustainment of air traffic services, safety, security, regulation, certification, operation, commercial space transportation, airport development, or administrative service assets.
- d. As used in this Guidance, the term "Represent" means: recommending an appropriate legal position for the service organization regarding an acquisition matter, and, as appropriate, presenting this position to other parties, such as in administrative or judicial proceedings, or in communications, discussions, or negotiations with another party during a protest, dispute, or claim.

e. As used in this Guidance, the term "Contracting Officer (CO)" includes both warranted 1170 Series Contracting Officer and warranted 1102 Series Contracting Officer.

4 Coordination Guidance Revised ~~9/2020~~9/2021

a. Coordination between the Service Organization and Agency Counsel

(1) The service organization will coordinate acquisition actions with FAA counsel on an ongoing basis throughout the acquisition lifecycle. Agency counsel will timely respond to the service organization with accurate and effective legal advice that is consistent with legal mandates and relevant to the agency's business discretion. Agency counsel may, at his or her discretion, establish general time frames for such responses, which counsel will make every effort to meet, taking into account the agency counsel's workload and competing priorities. Counsel will describe and interpret legal issues involved in the matter; identify and assess the legal risk of a particular proposed decision; evaluate alternative courses of action; and identify potential illegal or improper actions.

(2) In case of a conflict between FAA's legal interests and those of a service organization, agency counsel's client is the FAA, and not the service organization. In addition, each agency counsel is bound by independent professional ethical obligations and responsibilities as a licensed attorney.

(3) The Contracting Officer will document the acquisition file with agency counsel's opinion and recommendations. The Contracting Officer will document the reasoning/decision process when choosing not to follow the agency counsel's recommendations and provide a copy for counsel.

b. General Coordination Guidance for Acquisition Actions

The service organization will coordinate with agency counsel on acquisition actions (including supporting documents) with a total estimated potential value greater than \$100,000. This coordination guidance applies to acquisition actions including, as examples, but not limited to:

- (1) Required planning documents (SIRs) (e.g., acquisition strategy paper);
- (2) Solicitations, including Screening Information Requests (SIRs), amendments, and other public announcements, such as market surveys;
- (3) Responses to market surveys, including capability statements;
- (4) Market analyses;
- (5) Evaluation of offers or proposals (including preparation and review of technical, cost, past performance, management and other evaluation plans and reports);

- (6) Communications with offerors on acquisition matters having legal implications;
- (7) Contract awards, regardless of contract type, over the dollar value threshold specified above;
- (8) Acquisitions of Interests in Space and/or Land;
- (9) Debriefings, including responses to inquiries regarding awards from parties other than the awardee;
- (10) Task and delivery orders issued under contracts over the dollar value threshold specified above;
- (11) Modifications under contracts, including leases, that affect rights and obligations of either the Government or the Contractor (e.g., expanded scope of work, increased contract duration, increased contract cost, etc.);
- (12) Option exercises;
- (13) Award fee determinations;
- (14) Determinations as to contract adjustments;
- (15) Contract terminations;
- (16) Settlement of contract claims;
- (17) Liquidated damages;
- (18) Interpretation and determination of legal rights under contracts, orders or agreements;
- (19) Communications with contractors, offerors, and other parties on acquisition matters having legal implications, including correspondence that might impact the rights and obligations of any party;
- (20) Solicitation and contract matters involving rights in technical data, computer software, patents, copyrights, trade secrets and other forms of intellectual property, real estate, fiscal law, labor, environmental law, bankruptcy, anti-trust law, mergers and other non-procurement areas of law, affecting acquisitions;
- (21) Debarments and suspensions, nondisclosure agreements, centers of excellence and individuals hired by contractors who received a "buy-out."
- (22) Solicitation and contract matters involving state and local laws;
- (23) Software license agreements;
- (24) Purchases from government-wide schedules or vehicles;
- (25) Interagency agreements;
- (26) Grants (except Airport Improvement Grants);
- (27) Cooperative agreements;
- (28) Memoranda of Agreement and Memoranda of Understanding (excluding no-Cost Land On-Airport Memoranda of Agreement unless they contain non-standard clause language);
- (29) Franchises;
- (30) Agreements made under "other transaction authority;"
- (31) Unsolicited proposals;
- (32) Determinations, findings, and justifications issued pursuant to the Acquisition Management System, or as required by statute or regulation;

(33) Proposed waivers and waivers of any portion of the Acquisition Management System;

(34) Any other matters that in the opinion of agency counsel has an impact on the legality of an acquisition or legal consequences.

c. Coordination Guidance for Noncompetitive Procurements

For all non-competitive actions greater than \$10,000.00, not previously approved by a formal procurement plan or implementation planning strategy document, or subject to a direct award under AMS 3.6.1.3.5 or 3.6.1.3.6, or procurements under the Ability/One program or Randolph-Sheppard Act under AMS 3.8.4.2, the Service Organization must coordinate with agency counsel on any single source justification. The service organization must also coordinate with agency counsel on procurements greater than \$10,000 that requires a brand name mandatory rational basis or a waiver from the Acquisition Management System's competition policy.

d. Coordination Guidance for Emergency Actions

Legal coordination is not required in the event of an emergency as covered in AMS 3.2.2.4.1.1, Emergencies.

e. Coordination Guidance for Unauthorized Commitments, Personal Services, and Other Matters

The service organization will coordinate with agency counsel on the following matters, regardless of competition or dollar value limitation :

- (1) Freedom of Information Act, Trade Secrets Acts, and Privacy Act concerns relating to proposed release(s) of acquisition information;
- (2) Matters involving the Forced Arbitration Injustice Repeal (FAIR) Act/A-76;
- (3) All purchases of Real Property;
- (4) Quit Claim and Warranty Deeds for the procurement of land;
- (5) Unauthorized agency commitments;
- (6) Proposals for innovative financing, such as advance payments, shared costs, or user fees;
- (7) Personal services contracts;
- (8) Consulting and advisory services
- (9) Matters relating to export controls or non-U.S. citizens;
- (10) Matters involving information, personnel or physical security;
- (11) All condemnation/Eminent Domain actions (e.g., declaration of taking, straight taking, etc.);
- (12) Sufficiency of title in real estate acquisitions;
- (13) All disposal actions where the FAA will transfer real property interest to a non-governmental agency or transfer agent;
- (14) Matters raising ethical or Procurement Integrity Act issues, or concerning conflicts of interest (personal and organizational), federal and state fraud statutes, or other federal and state criminal statutes.
- (15) Policy memoranda, procedures, regulations, orders, and guidance concerning acquisition matters;
- (16) Proposed legislation and testimony for legislative hearings on acquisition matters;
- (17) Correspondence about acquisition matters with parties outside the agency, including Congress, the General Accounting Office, and other federal agencies, or correspondence under the signature of the Secretary, Deputy Secretary, Administrator, Deputy Administrator or Regional and Center Directors;

- (18) Any proposed deviation from a required clause;
- (19) Any agreements for Real Property with foreign governments or entities; and
- (20) Any new acquisition of Housing.

5 Representation

a. Agency counsel will represent the service organization in any protest of an award or other procurement action, and in contract claims, disputes, or controversies by and against the FAA, including all meetings, negotiations, discussions, or communications on the matter after an action has been filed in an administrative, judicial, or FAA forum.

b. Agency counsel will represent the service organization on behalf of the FAA in communications, negotiations, and meetings with other parties touching upon the legal rights and obligations of the parties, or where another party, including a government party, is expected to be represented by legal counsel.

6 Exceptions and Waivers Revised 9/2020

At Headquarters, the Assistant Chief Counsel for Procurement, and at Regions and Centers, the Region or Center Counsel, may make written exceptions to the Legal Coordination Policy described in Section 1.2.14, adjust dollar minimums, or in appropriate cases, waive the Coordination Policy.

B Clauses

[view contract clauses](#)

C Procurement Forms Added 9/2021

[view procurement forms](#)

Document Name

D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Document Name

F Procurement Tools and Resources Added 9/2021

Document Name

Section Revised T3.1.4 – Delegations

Procurement Guidance - (~~7/2021~~9/2021)

T3.1.4 Delegations Revised 7/2009

A Authority, Delegation, and Unauthorized Commitments Revised 1/2017

1 Delegated Authority Revised 9/2020

2 COCO Responsibilities Revised 9/2020

3 1102/1170 Series Certification Revised 9/2020

4 Contracting Officer Certificates of Appointment/Warrants (1102/1170 Series) Revised

9/2020

5 Procurement Authority Delegated to Other Qualified Individuals Revised 7/2021

6 Ratification of Unauthorized Commitments Revised ~~9/2020~~9/2021

B Clauses Revised 7/2010

C Procurement Forms Revised ~~7/2021~~9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

DG Appendix Added 9/2021

Appendix A: 1102 Series Warrant Standards Revised 1/2017

Appendix B: 1170 Series Warrant Standards Added 09/2020

T3.1.4 Delegations Revised 7/2009

A Authority, Delegation, and Unauthorized Commitments Revised 1/2017

1 Delegated Authority Revised 9/2020

a. *Delegation.* The Administrator has authority to enter into contracts, leases, grants, cooperative agreements, and other transactions. Except for Airport Improvement Grants (AIP), the Administrator has delegated authority for managing these functions to the FAA Acquisition Executive (FAE). Based on the Administrator's delegation, the FAE has authority to appoint, and redelegate authority to, the Chief(s) of the Contracting Office (COCO), Contracting Officers (CO) and qualified non-contracting personnel. Except for the Purchase Card program, these delegations cannot be redelegated.

b. *Administrator's Review.* The Administrator must be notified of and given sufficient time to review, any non- AIP grant, cooperative agreement, or other transaction not defined in AMS with a cumulative value of \$10 million or more, and those with significant Congressional interest. (See AMS Procurement Guidance T3.8.1 Agreements, Cooperative Agreements, Gifts & Bequests, for additional information).

c. *Authority Granted.* Any delegation of authority must be in writing and state the authority and limitations it conveys. If authority is not included in the delegation, then that authority does not exist.

d. *Basis for Delegation.* Before delegating authority, the FAE considers the following:

(1) That there is a demonstrated need for the authority;

(2) That the delegation level will be commensurate with the need in terms of dollar value, complexity, and mission criticality;

(3) That the individual meets the qualifications and certification standards for the authority. However, an individual's qualifications, without a demonstrated need for the authority, are not sufficient reason to grant authority; and

(4) Other factors, such as organizational structure, total volume of the actions, complexity and dollar value of the work involved, and aggregate value of the anticipated actions that the individual will be processing.

e. *Purchase Card Delegation.* The FAE's approval is not required for individual Delegations of Procurement Authority (DPA) for the purchase card program. Procurement Guidance T3.2.6 Purchase Card Program addresses purchase card delegations.

f. *Delegation Records.* The FAE will provide a copy of all delegations of authority and any modifications, terminations/rescissions, or waivers to delegations to the COCO and the Acquisition Career Manager (ACM). The ACM will be the official record keeper for all delegations and must maintain copies of the delegations.

g. *Rescinding Delegation*. Except for the purchase card program and delegated authorities which are automatically rescinded due to the individual leaving the Acquisition and Contracting organization or receiving a new warrant, only the FAE may rescind a CO warrant or other procurement authority. Unless the delegation provided for automatic rescission, the rescission is to be by letter, state the general reason for rescission and the effective date. When a delegated authority is rescinded before its automatic rescission date or when there is no automatic rescission date, the written notice to the individual should be provided in advance of the rescission to ensure the individual does not make any unauthorized commitments.

Upon notification of the rescission, the original warrant or certificate of appointment is annotated as "rescinded". Reasons for rescission may include:

- (1) The need for the delegated authority no longer exists, for example, lack of a demonstrated need, retirement, resignation, termination of employment, issuance of a new warrant, or an assignment to another position.
- (2) Failure to comply with applicable requirements, limitations, policies, regulations, statutes, or delegated responsibilities;
- (3) Maintenance training/certification requirements have not been met, or failure to maintain all standards after appointment; or
- (4) Violation of a material portion of the ethics guidance for Federal employees and/or standards of conduct for Department of Transportation employees.

h. *Changes in Authority*. When the FAE modifies delegated authority, it must be in writing and delivered to the individual with sufficient advance notice and instructions to ensure that the individual does not make unauthorized commitments. Any increase or decrease in the dollar value or scope of an individual's authority requires issuing a new certificate of appointment or warrant and rescission of the previous delegated authority.

i. *Waivers*. The FAE may waive qualification and certification standards if circumstances clearly dictate need for delegation of authority, even though the employee does not fully meet required standards. Such a waiver is conditional, identifies duration, and must state the requirements that the individual must satisfy to become fully qualified.

2 COCO Responsibilities Revised 9/2020

a. The COCO is a position designated by the FAE that is delegated unlimited authority for procurement contract award and administration, leases, real estate transactions, cooperative agreements, non-Airport Improvement (AIP) grants, other agreements, and other transactions. The COCO, acting within the scope of the FAE's delegation, manages day-to-day contracting functions for FAA.

b. Specific responsibilities of the COCO include:

(1) *Review/Approve Qualifications.* The COCO reviews and approves qualifications of personnel such as education, training, knowledge, and experience, being considered for appointment as a CO or for other types of procurement authority.

(2) *Delegate Authority.* Except for delegations made pursuant to the purchase card program, the COCO formally requests delegation of authority in writing to the FAE.

(3) *Periodic Review.* The COCO, with the appropriate managers, periodically reviews delegations to validate that the delegations remain appropriate and needed, reviews individual's continuous learning to ensure requirements are being met, and periodically examines procurement actions to ensure authorized individuals do not exceed their delegated authority. All Level I and II warrants will be reviewed at least annually and Level III warrants will be reviewed at least every two (2) years.

3 1102/1170 Series Certification Revised 9/2020

Individuals must meet training, education, and experience requirements to qualify for an 1102/1170 job series position. AMS Policy Section 5, Acquisition Career Program, outlines certification requirements for personnel once in the 1102/1170 series.

4 Contracting Officer Certificates of Appointment/Warrants (1102/1170 Series) Revised 9/2020

a. *Limitations.* Warrants define the dollar and scope limitations of the authority. Warrants may be limited or unlimited. A limited warrant states a total dollar limitation for each transaction. The dollar value of a transaction includes the base year and all options and ceiling amounts, as defined by "total estimated potential value" in Appendix C of AMS policy. An unlimited warrant allows transactions at any dollar value. In addition to the dollar value, limited and unlimited warrants must expressly state any limitations of authority (other than limitations in applicable laws or regulations) and the specific types of transactions the CO is authorized to make.

b. *Warrant Levels.* The determination of warrant levels must be based on a demonstrated mission need for the authority. These warrant levels do not apply to purchase card delegations. Individuals must meet the training, education, and experience requirements for certification as outlined in AMS Policy Section 5, Acquisition Career Program, to qualify for a warrant unless the FAE grants a waiver in accordance with Section 1.i.

c. *Procedures for Obtaining Certificate of Appointment (Warrant).*

(1) For the 1102 Series, the request for a certificate of appointment/warrant is prepared through the CO. Warrant Request Forms are located at the ACM Professions Portal at <https://ksn2.faa.gov/aa/AcquisitionProfessions/Pages/Default.aspx> (FAA only).

(2) For the 1170 Series, the request for a certificate of appointment/warrant is prepared through the real estate CO. Warrant Request Forms are located at the ACM Professions Portal at

https://ksn2.faa.gov/faq/AcquisitionProfessions/Pages/reco_home.aspx (FAA only).

The manager ensures that there is a mission need; the individual meets the applicable training, education, certification and experience requirements commensurate with the proposed delegated threshold prior to forwarding the warrant request to the COCO and Acquisition Career Manager (ACM). A sample of the warrant request and instructions are available at the above link.

(3) The ACM and COCO review the request and supporting documentation for completeness and evaluates the applicant's acquisition experience, training, and evidence of certification.

(4) The certificate of appointment must include a warrant number, dollar limit of warrant authority, and any other applicable limitations, such as restrictions to certain types of transactions. If approved, the FAE signs the delegation and returns it to the ACM for distribution.

d. *Displaying Warrant and Other Certificate of Appointment.* COs must prominently display the original warrant or other certificate of appointment so that information about their authority and any limitations is readily available to the public and FAA personnel.

e. *Skills Currency/Continuous Learning.* To maintain the delegated authority, individuals must maintain appropriate 1102/1170 series certification level. Acquisition professionals must earn 80 Continuous Learning Points (CLP) of skills currency training every two (2) years. COCOs monitor continuous learning requirements for individuals' delegated authority. If an individual does not earn 80 CLPs every two (2) years, the FAE may rescind or modify the warrant or certificate of appointment to decrease the dollar and/or specific type of transaction authority.

5 Procurement Authority Delegated to Other Qualified Individuals Revised 7/2021

a. *Redelegation.* Individuals delegated procurement authority from the FAE under this subsection cannot redelegate that authority.

b. *Delegation of Reimbursable Agreement Authority (DRAA).* For Small Scale Reimbursable Agreements (SSRAs) with a value of less than \$30,000, a DRAA may be granted to qualified non-1102s by the FAE through a written request. This delegation does not allow the individual to obligate funds nor is certification required. This authority cannot be further delegated, and personnel cannot "sign for" or "sign over" another's authority.

c. *Displaying the DRAA.* Personnel must prominently display the DRAA to make information on the authority and any limitations readily available to the public and FAA personnel.

6 Ratification of Unauthorized Commitments Revised 9/2020/2021

a. *General.*

(1) *Contracting Authority.* Only a ~~CO and~~ Contracting Officer or other qualified individual delegated procurement authority, acting within the scope of his or her delegated authority, may

enter into contracts, orders, leases or ~~other~~ agreements and may obligate funds on behalf of the Government.

(2) *Unauthorized Commitments.* ~~A~~ An unauthorized commitment is a contract, ~~order, lease,~~ or agreement made by an FAA employee, or manager (including an executive), other than a CO or other authorized person, that is not binding because the person who made the agreement lacked the authority to commit the Government. An employee without proper authority who commits the Government is acting improperly. The employee will be held accountable and ~~may be~~ disciplined according to Federal Aviation Personnel Manual (FAPM) Letter 2635 and Human Resources Policy Manual (HRPM) ER-4.1 Standards of Conduct, and ER-4.5, FAA Procedures for Disciplinary and Adverse Actions, as applicable.

(3) *Organizational Responsibility.* FAA organizations must make every effort to prevent unauthorized commitments. Unauthorized commitments are serious acts of misconduct. ~~Supervisors and managers~~ Managers must ensure each ~~employee~~ of their employees is aware of policy and procedures related to unauthorized commitments and conduct and discipline rules for unauthorized commitments in FAPM Letter 2635 and ER 4.1 ER-4.1, Standards of Conduct, and ER-4.5, FAA Procedures for Disciplinary and Adverse Actions.

~~(4) Ratification.~~ (4) *Ratification.* Ratification is the act of approving an unauthorized commitment by an individual having the authority to do so. Although FAA's policy is to avoid unauthorized commitments, under certain approved circumstances such commitments may be ratified using the procedures in this section and converted into a legal contract.

(5) *Ratifying Official.* ~~The COCOA ratifying official~~ has the authority to ratify unauthorized commitments. The Chief of the Contracting Office (COCO) has authority to ratify unauthorized commitments for the FAA. This ratifying authority cannot be delegated below this position.

(6) *Local Implementation.* All FAA organizations must follow the procedures in this section. Contracting offices and other organizations may issue additional implementing procedures if they do not contradict the procedures in this section.

b. *Procedures for Ratification.* When an organization discovers an unauthorized commitment, the organization must take immediate action to ratify the commitment and have the cognizant procurement office convert it to a legal transaction. Procedures for ratification are:

(1) The ~~supervisor/~~ employee's manager, assisted by the person who committed the unauthorized act, prepares a memorandum of facts containing the following information:

- (a) A detailed description of the circumstances that caused the unauthorized commitment;
- (b) Reasons why normal procurement procedures were not followed;
- (c) A description of the bona fide Government need that required the commitment;

(d) A statement about the benefit to the FAA from acquiring the unauthorized supplies or services received;

(e) The dollar value of the commitment;

(f) Rationale for the contractor selected and identification of other sources considered;

(g) The name of the individual who made the unauthorized act;

(h) A statement about the disciplinary action taken to preclude the situation from recurring;

(i) A specific recommendation that the transaction be approved and ratified;

(j) A determination that funds are now available and were available at the time the unauthorized commitment was made; and

(k) Any other pertinent facts including invoices, receiving reports, or other evidence concerning the transaction.

(2) ~~Evidence~~A Procurement Request (PR) providing evidence of available funding ~~should~~must be attached to the memorandum: along with a copy of the invoice (if applicable).

(3) The memorandum of facts must be ~~signed by the employee who made the unauthorized commitment and endorsed by the supervisor/manager.~~ By signing the memorandum, the employee attests that the information is accurate and complete. The employee's manager must then sign the memorandum. If the employee has separated from the FAA, then the organization having access to information about the unauthorized commitment prepares the memorandum and the former employee's supervisor/manager signs it. The cognizant CO must then also review the memorandum to ensure accuracy and completeness. After the CO's initial review and concurrence, the Line of Business/Staff Office Senior Financial Manager must then sign the memorandum.

(4) Legal review and concurrence is obtained before submitting the memorandum to the ~~ratifying official~~cognizant procurement office for the CO's formal determination.

(5) After legal concurrence, the memorandum along with the applicable ~~Procurement Request (PR)~~is and a copy of the invoice (if applicable) are transmitted to the cognizant procurement office for ratification action.

(6) When the procurement office receives a PR, a copy of the invoice (if applicable), and a properly documented supporting memorandum, the CO makes a written determination, as described below, and forwards the ratification action to the ratifying official.

(a) *CO Determination.* Before recommending approval of a ratification and as a part of the CO's review and determination, the CO:

(i) Determines the price to be fair and reasonable;

(ii) Recommends that payment be made;

(iii) Determines that the settlement of the unauthorized commitment would not involve a contract dispute subject to AMS Policy 3.9; and

(iv) Determines that the purchase would have been authorized had the purchaser followed established procedures.

(b) If an affirmative determination can be made in all areas of subparagraph (a) above, the CO ~~prepares~~ addresses the following regarding the unauthorized commitment as part of the memorandum and sends it to the ratifying official ~~with the following information~~:

(i) A ~~brief description of the unauthorized commitment~~;

~~(ii)~~ A statement that ~~prices are~~ the price is fair and reasonable;

~~(iii)~~ A statement recommending approval of the unauthorized commitment;

and

~~(iv)~~ A copy of all supporting documentation.

(c) If the CO, after legal concurrence, is unable to make an affirmative determination in all areas of subparagraph (a) above, the memorandum to the ratifying official states the CO's reasons that an affirmative determination cannot be made, recommends that the action not be ratified, and offers an alternative solution to resolving the unauthorized commitment.

(d) The ratifying official will then consider the CO determination and determine whether to approve or disapprove the CO determination regarding the unauthorized commitment.

c. Notice of Infractions.

(1) An unauthorized commitment made by an individual is considered a first ~~an~~ infraction. The individual's manager must work closely with their servicing Labor and Employee Relations (LER) office on how to best handle the infraction. Circumstances will determine the offense and the proposed adverse or disciplinary action taken consistent with ER-4.1, Standards of Conduct, and ER-4.5, FAA Procedures for Disciplinary and Adverse Actions.

(2) Upon receipt of a request for ratification from an organization, the cognizant division manager of the contracting office forwards a notice of infraction to the next level manager/supervisor above the supervisor/manager who signed the memorandum of facts. The notice advises the second level

manager/supervisor that the action violates Federal law and FAA policy and guidance; reminds him or her of the proper procurement process; offers to provide written material or mini-training sessions (when possible) to orient the organization to the procurement process; requests every effort be made to avoid future violations; and, when appropriate, requests the widest possible distribution of the notice within the organization. This notice must not include any personal information regarding the employee or any personnel-related matters specific to the employee.

d. *Disciplinary Actions for Making Unauthorized Commitments.*

(1) Individuals who make unauthorized commitments, and their immediate ~~supervisor~~ manager are subject to possible disciplinary actions. The recommended levels of disciplinary penalties for ~~staff, employees and~~ managers, ~~and supervisors~~ are contained ~~FAPM Letter 2635~~ in ER-4.1, Standards of Conduct, and ER-4.15, FAA Procedures for Disciplinary and Adverse Actions.

(2) Any unauthorized commitment made by a non-manager/supervisor with the approval of his or her manager/supervisor is an infraction against the manager/supervisor and not the non-manager/supervisor.

~~(3) The period of accumulation for the above mentioned infractions by staff, managers, and/or supervisors is five (5) years.~~

e. *Avoiding Ratification.*

(1) When individuals who have not been delegated procurement authority need products or services, or when individuals with delegated procurement authority need products or services estimated to exceed their delegated authority, they must consult with the procurement office for support and guidance to avoid unauthorized commitments.

(2) An unauthorized commitment occurs when someone, other than a CO or other authorized individual, enters into an agreement on behalf of the Government but does not have authority to do so or to obligate the Government.

(3) To avoid a ratification action, an office requiring products or services must ensure that its employees are familiar with the procurement process and are aware of the consequences of unauthorized commitments.

(4) Individuals who have not been delegated procurement authority and who need supplies or services must contact either the person within their organization who has delegated procurement authority or the cognizant procurement office for assistance. The following are examples of types of procurement and areas of the procurement process that may involve individuals outside of the procurement offices, and circumstances in which procurement authority may be delegated to individuals other than a CO. (For more information about procurement methods generally used by individuals outside of the procurement office, see AMS Procurement Guidance T3.2.2.5, Commercial and/or Simplified Purchase Method.)

(a) *Government Purchase Card*. FAA employees may be delegated authority to procure supplies and services using the Government purchase card.

(b) Blanket Purchase Agreement (BPA). A procurement vehicle, awarded by a CO, for ordering supplies or services that may authorize other specific individuals to order supplies or services from the vendor.

(c) ~~Purchase Card~~Convenience Check. FAA employees delegated purchase card authority may use ~~purchase card~~convenience checks when a vendor does not accept the Government purchase card for on-the-spot, over-the-counter purchases of supplies and services and the additional requirements of AMS T3.2.6A.2 are met.

(5) Existing Contracts. Contracting Officer Representatives, resident engineers, etc., must be careful not to direct a contractor to perform any task that would result in a change to the cost, schedule, or scope of the contract, unless such action is authorized by the CO. It is easy through conversation and during the normal daily interaction with the contractor to inadvertently direct the contractor to perform tasks that result in cost or schedule impact. If such direction is given without the delegated authority, or the express authorization of the CO, the result is an unauthorized commitment.

(6) Contract Renewals. ~~Contracts~~A contract awarded for a base period of performance plus options means that the Government is only committed for the base period. Each option period requires a contract modification before the beginning of the option period to authorize continued performance. Performance following the initial contract period must not begin until the contract has been properly modified to authorize continued performance. The requiring office is responsible for requesting a contract modification to exercise options and for providing the funds to continue performance. Individuals who serve as the Government's point of contact on a contract with option provisions should be familiar with the contract terms. Placing an order or directing tasks against an expired contract results in an unauthorized commitment. Before the beginning of the option year, if a modification has not been received to extend the contract period, the CO should be contacted for guidance before placing any orders or directing any tasks for that option period.

(7) Examples. The following are examples of areas where unauthorized commitments are commonly made:

- (a) A Federal employee without delegated procurement authority-
 - (i) Calls a contractor and requests support without confirming a contract is in place;
 - (ii) Directs a contractor to start work before a contractual document is awarded by an authorized CO;
 - (iii) Asks a contractor to make a purchase for them without a fully signed contractual agreement in place authorizing the purchase;
 - (iv) Signs up for online support services, magazine subscriptions ; or associations involving a financial commitment; or
 - (v) Signs up for services or subscriptions involving automatic renewals involving a financial commitment.
- (b) The following types of procurements also require caution to avoid possible unauthorized commitments-
 - (i) Acquiring Conference Space. After the request for conference space has been coordinated through the local real property office per AMS Guidance T3.2.1A.12, the requiring office may discuss the requirement with the vendor/hotel to ensure the appropriate accommodations are

available. However, the space should not be utilized until the transaction has been approved and an agreement signed by a person with the appropriate procurement authority.

(bii) Training. Request for training should be submitted to the procurement office in time to enable the requirement to be processed sufficiently in advance of the beginning of the course.

(eiii) Professional Speakers or Arbitration Services. The requiring organization may identify the appropriate speakers or arbitrators and have discussions to ensure the Government's needs will be met. However, the requiring office should not enter into any oral or written agreements on behalf of the Government unless the person making the agreement has the delegated authority to do so. If the requiring office does not have an individual with the delegated authority to enter into an agreement, the request should be submitted to the contracting office for processing.

f. *Exceptions to Infractions.*

(1) In cases of extreme emergencies, such as floods, fires, tornadoes, earthquakes and hurricanes, or emergencies that may have an immediate impact on the safety of the flying public and/or FAA personnel, an individual may need to obligate the Government's funds to preserve life and property. In these instances, if possible, the individual should contact the cognizant procurement office and request that a CO verbally authorize the contractor to proceed according to emergency procedures outlined in AMS policy 3.2.2.4.1.1.

(2) When the extreme emergency conditions outlined above occur, and attempt to contact the CO ~~was not contacted~~ to give a verbal authorization was unsuccessful, the memorandum of fact as described in this Guidance documents the circumstances. The memorandum ~~includes~~ must include a statement that the person who made the unauthorized commitment is exempt from the requirement for disciplinary action. The memorandum must be prepared and submitted as soon as possible afterwards.

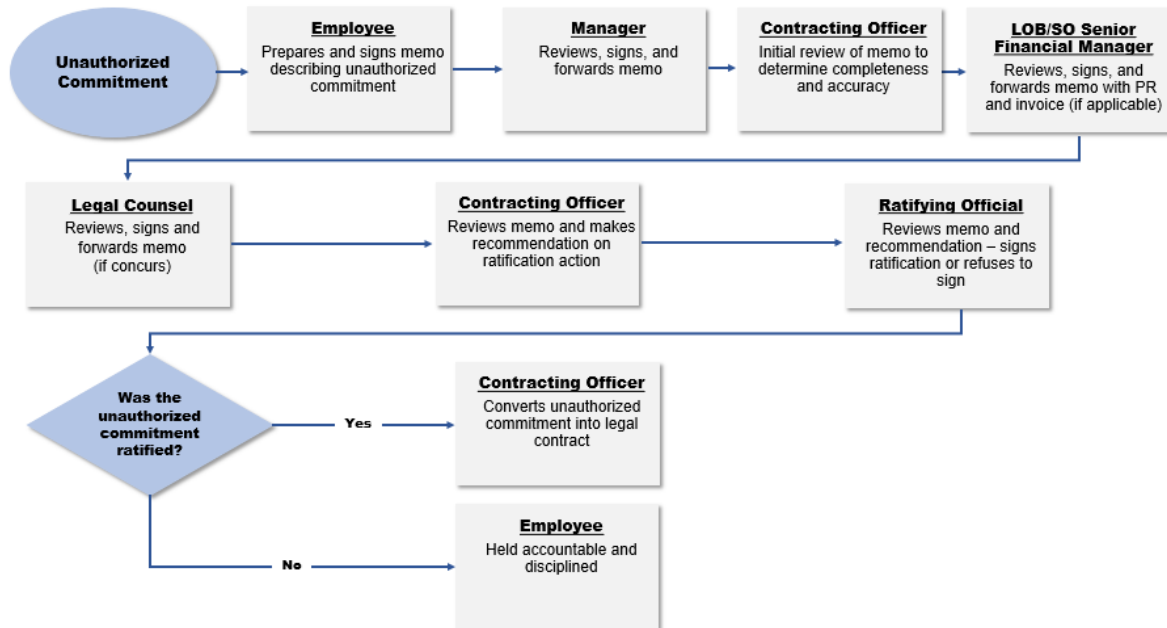
g. *Waiving Disciplinary Action.* The ratifying official may waive disciplinary action. The A written justification must be submitted to the ratifying official ~~must justify in writing indicating~~ why the unauthorized act does not warrant discipline.

h. *Definitions.*

~~(1) "Ratification" is an act of approving an unauthorized commitment by an official who has the authority to do so.~~ Process Flowchart

~~(2) "Unauthorized commitment" is an agreement entered into by a representative of the Government who does not have the authority to enter into agreements on behalf of the Government.~~

Ratification Process



B Clauses Revised 7/2010

[view contract clauses](#)

C Procurement Forms Revised ~~7/2010~~ 9/2021

[view procurement forms](#)

Document Name

D Procurement Samples Added 9/2021

Document Name

E Procurement Templates Added 9/2021

Document Name

Ratification Memorandum

F Procurement Tools and Resources Added 9/2021

Document Name

G Appendix Added 9/2021

Appendix A: 1102 Series Warrant Standards Revised 1/20219/2021

	Threshold Limit	Minimum FAA Certification Level
\$150,000		Level I
	\$1,000,000	Level II
\$5,000,000		Level II
	\$10,000,000	Level II
	\$50,000,000	Level III
Unlimited		Level III

Appendix B: 1170 Series Warrant Standards Added 9/2020Revised 9/2021

	Threshold Limit	Minimum FAA Certification Level
\$150,000		Level I
	\$250,000	Level I
\$300,000		Level II
	\$1,000,000	Level II
	\$1,500,000	Level III
Unlimited		Level III

Section T3.1.5 – Conflict of Interest

Procurement Guidance - (~~7/2021~~9/2021)

T3.1.5 Conflict of Interest Revised 8/2009

A Conflict of Interest

1 Requirement for an Agreement Regarding Conflict- of- Interest Revised ~~9/2020~~9/2021

2 Processing a Conflict of Interest Revised 1/2007

3 Single-Source/Non-Competitive Acquisitions Revised ~~9/2020~~9/2021

B Clauses

C Procurement Forms Revised ~~4/2011~~9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T3.1.5 Conflict of Interest Revised 8/2009

A Conflict of Interest

1 Requirement for an Agreement Regarding Conflict-of-Interest Revised 9/2020/2021

a. Persons who have a real or apparent conflict of interest may be unable to render impartial, technically sound, and objective assistance, advice, or decisions. A procurement team member (program officials, contracting personnel, legal counsel, and others supporting a program), Office of Dispute Resolution for Acquisition (ODRA) member, or other Federal member who has a real or apparent conflict of interest, and who is a Federal employee, must withdraw from participation in the source selection process if law (18 U.S.C. § 208) or regulation (5 CFR Part 2635) requires it. Considerations of equity and integrity of the procurement process require that non-Government members of a procurement team be held to the same standards.

b. Unless a procurement team member receives prior authorization, a procurement team member who is a Government employee should not participate if the result is likely to affect the financial interests of the procurement team member's household, or the procurement team member knows a person with whom the procurement team member has a covered relationship as defined in 5 CFR § 2635.502, or the procurement team member represents a party, if a reasonable person with knowledge of the relevant facts would question the procurement team member's impartiality in the matter. The law does not require non-Government procurement team members be removed when they have an apparent conflict, but the FAA's public image, workforce morale, and considerations of equity dictate that they be treated exactly as our own employees are treated.

c. Each person involved in the source selection process, including the Source Selection Official (SSO), contracting officer, and legal counsel, who might have access to confidential or proprietary procurement information such as procurement strategy, offerors' proposals, results of evaluations, and the final selection actions, must sign and submit an Agreement Regarding Conflict-of-Interest (see AMS Procurement [Forms Templates](#)) to the SSO or designee before any participation in the source selection process for all procurements with an estimated value of \$150,000 or greater. This is to ensure that no conflict of interest exists. An Agreement Regarding Conflict-of-Interest should be completed before distribution of offerors' submissions for evaluation and at any time afterwards, if an individual's financial, business, or employment situation changes to create the potential for a conflict of interest. The Agreement Regarding Conflict-of-Interest must be completed by individual procurement team members for each procurement and retained in the pre-award file.

2 Processing a Conflict of Interest Revised 1/2007

If the SSO or designee becomes aware of a conflict of interest, the SSO should notify the procurement legal counsel immediately. Action should be taken to remove the party from further participation in the source selection activities until the conflict of interest is reviewed and legal advice obtained. A procurement team member must be excused or removed from participation in the source selection process should a conflict of interest exist, unless a waiver is granted. All conflict of interest cases must be clearly documented. The procurement team members must update and resubmit any and all conflict

of interest statements if an individual's financial, business, or employment relationship changes to the extent that a conflict of interest could exist.

3 Single-Source/Non-Competitive Acquisitions Revised 9/2020/2021

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the Contracting Officer will take all appropriate actions in coordination with the Service Organization. The Agreement Regarding Conflict-of-Interest-form will be incorporated into the Single Source Justification. Any person involved in the source selection process who is not a signatory on the Single Source Justification will complete a separate Agreement Regarding Conflict-of-Interest-Form. The Contracting Officer may tailor the Agreement Regarding Conflict of Interest Form as appropriate.

B Clauses

[view contract clauses](#)

C Procurement Forms Revised 4/2014/2021

[view procurement forms](#)

<u>Document Name</u>

D Procurement Samples Added 9/2021

<u>Document Name</u>

E Procurement Templates Added 9/2021

<u>Document Name</u>
<u>Agreement Regarding Conflict of Interest</u>

F Procurement Tools and Resources Added 9/2021

<u>Document Name</u>

Section Revised T3.1.6 – Non-Disclosure of Information

Procurement Guidance - (~~7/2021~~9/2021)

T3.1.6 Non-Disclosure of Information Revised 8/2009

A Disclosure of Information

1 General Revised 1/2007

2 Requirement for an Agreement Regarding a Non-Disclosure of Information Agreement Revised ~~1/2017~~9/2021

3 Processing a Violation of the Agreement Regarding Non-Disclosure of Information Agreement Revised ~~1/2017~~9/2021

4 Processing a Freedom of Information (FOIA) Request Revised 1/2017

5 Single-Source/Non-Competitive Acquisitions ~~Added 7/2012~~Revised 9/2021

B Clauses

C Procurement Forms Revised 9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

T3.1.6 Non-Disclosure of Information Revised 8/2009

A Disclosure of Information

1 General Revised 1/2007

The Source Selection Official (SSO), each procurement team member (program officials, contracting personnel, legal counsel, and other support staff), including advisors, and any other individuals exposed to commercially sensitive and source selection sensitive information must maintain confidentiality of that information.

2 Requirement for ~~an Agreement Regarding~~ Non-Disclosure ~~of Information Agreement~~ Revised 1/2017/2021

Maintaining the security of sensitive procurement information and source selection proceedings is of paramount importance to the integrity of the evaluation process. To assure that sensitive data acquired in the course of the procurement are handled properly by each procurement team member, the individuals involved in these proceedings are required to sign ~~an Agreement Regarding~~ Non-Disclosure ~~of Information Agreement~~ (see AMS Procurement Templates) before the Screening Information Request (SIR) is issued for all procurements with an estimated value of \$150,000 or greater. This agreement provides notice of the type of information that requires protection and the penalties for improperly disclosing such information.

The certification of completion of Annual Ethics Training by Contracting Officers, Contract Specialists and Legal Counsel is considered a blanket ~~Agreement Regarding~~ Non-Disclosure ~~of Information Agreement~~ for the following fiscal year, so these individuals will not need to fill out individual ~~Agreement Regarding~~ Non-Disclosure ~~of Information forms~~ Agreements. The completion of Annual Ethics Training is documented in eLMS.

3 Processing a Violation of the ~~Agreement Regarding~~ Non-Disclosure ~~of Information Agreement~~ Revised 1/2017/2021

Any suspected or actual improper disclosure of procurement sensitive information must be reported to the Contracting Officer. The Contracting Officer will consult with the Procurement Legal Division for guidance in this matter. The suspected violator should not be permitted to continue in the procurement process until the suspected violation has been reviewed and legal advice obtained.

4 Processing a Freedom of Information (FOIA) Request Revised 1/2017

a. The CO processes requests for procurement information under FOIA. Unless the request for information is exempt from disclosure under the Act (such as trade secrets and commercial or financial information that is privileged or confidential), the information must be released. The CO

coordinates responses to FOIA requests with the local FOIA Control Officer and the Office of Chief Counsel.

b. The CO must coordinate a request for procurement information with the vendor (submitter) whose contract, or information provided under a contract, is requested. The CO must request that the vendor describe the specific information exempt from disclosure and provide the specific exemption(s) which apply to the information. The vendor's response must be placed in the contract file. The CO determination whether the information is exempt from disclosure and rationale for the determination must also be placed in the contract file.

5 Single-Source/Non-Competitive Acquisitions ~~Added 7/2012~~Revised 9/2021

The requirements of this Section are also applicable to single-source and non-competitive acquisitions. For such acquisitions, the Contracting Officer will take all appropriate actions in coordination with the Program Office. ~~The~~Subject to the Procurement Legal Division approval, the Contracting Officer may tailor the ~~Agreement Regarding Non-Disclosure of Information Form Agreement~~ as appropriate.

B Clauses

[view contract clauses](#)

C Procurement Forms Revised 9/2021

[view procurement forms](#)

<u>Document Name</u>

D Procurement Samples Added 9/2021

<u>Document Name</u>

E Procurement Templates Added 9/2021

<u>Document Name</u>
<u>Non-Disclosure Agreement</u>

F Procurement Tools and Resources Added 9/2021

Section Revised T3.2.1 – Procurement Planning

Procurement Guidance - (~~7/2021~~9/2021)

T3.2.1 - Procurement Planning Revised 4/2009

A Procurement Request (PR) Revised 7/2007

1 Purpose of a Procurement Request Package Revised ~~9/2020~~9/2021

2 Content of PR Package Revised ~~9/2020~~9/2021

3 Review by Chief Information Officer Revised ~~1/2021~~9/2021

4 Reserved Revised 1/2018

5 Procurement System-Generated Requisition Revised 9/2020

6 Funds Certification Revised 9/2020

7 Requisition Approval Levels Revised 9/2020

8 Describing Requirements Revised 9/2020

9 Independent Government Cost Estimate Revised ~~9/2020~~9/2021

10 PR Package Clearances, Justifications and Other Documentation Revised 9/2020

11 Simplified Purchases Revised 7/2007

12 Conference Space or Short Term Leases Revised 9/2020

13 Logistics Center Supply Support Revised 9/2020

14 Reserved Revised 9/2020

15 Reserved Revised 9/2020

16 Liquidated Damages Revised 9/2020

17 Returning a Deficient PR Package Revised 9/2020

18 Approval of Multiple Award Procurement Programs Revised 9/2020

B Clauses

C Procurement Forms Revised ~~7/2007~~Added 9/2021

D Procurement Samples Added 9/2021

E Procurement Templates Added 9/2021

F Procurement Tools and Resources Added 9/2021

G Appendix Added 9/2021

1 Estimated Acquisition Lead Time Chart

T3.2.1 - Procurement Planning Revised 4/2009

A Procurement Request (PR) Revised 7/2007

1 Purpose of a Procurement Request Package Revised 9/2020/2021

A Procurement Request (PR) package initiates acquisition of supplies, equipment, real property, utilities, material, systems, services, or construction. It is the basis for a Contracting Officer (CO) to plan, solicit, and award a contract, purchase order, delivery/task order, agreement, lease, modification, or other procurement action. The PR package is used to define the requestor's requirements so the CO can acquire supplies, real property, utilities, and services from or through other Government agencies, private and public organizations and institutions, and commercial vendors. For additional reference, please refer to the Procurement Templates "Procurement Planning for Other Than Simplified Acquisitions – Template A", and "Procurement Planning for Simplified Acquisitions – Template B." For real estate procurements, please refer to Real Property Procurement Templates and Samples – Procurement Plan for Real Estate - Template C.

2 Content of PR Package Revised 9/2020/2021

- (a) The requiring service organization, responsible for the requirement to be satisfied through a procurement action prepares the PR package. The nature, value, and complexity of the requirement determines the exact content of the package.
- (b) As soon as a requirement becomes known, the requiring service organization should consult with the cognizant contracting organization, or CO if known, to determine the specific types of information needed for an acceptable PR package, and when the information must be provided. The information in a PR package is the foundation for a contractual instrument, so it should be complete in all essential aspects. The Estimated Acquisition Lead-Time chart (see AMS Procurement Forms Appendix 1) may serve as a planning tool for both the contracting organization and requiring service organization to estimate lead-times for the various milestones applicable to a procurement.
- (c) The requiring service organization is responsible for submitting the PR package to the appropriate contracting office, or assigned CO if known. Unless otherwise required by local procedures implemented by mutual agreement between the PR-initiating organization and contracting office, documents in the PR package are in electronic format and annotated with a PR number and project title. Materials accompanying a PR package that cannot be provided in electronic format, such as drawings, are delivered to the appropriate contracting office or assigned CO, and labeled with PR number, project title, and location.
- (d) The following list represents information and documentation that may be required for a PR package for the procurement of products, services or construction (design or alteration of property). This list is not all-inclusive and each item below will not apply to every procurement action:

- (1) Requisition committing funds.
- (2) Statement of work, specifications, purchase description, drawings, or other appropriate technical description of the requirement.
- (3) Technical data items (such software design documents or test plans) to be delivered, Data Item Descriptions (defining data content, format, preparation instructions, and intended use), and Contract Data Requirements List.
- (4) Independent Government Cost Estimate.
- (5) List of potential vendors and addresses (including incumbent contractor, if applicable).
- (6) Delivery destination or place of performance and delivery date or period of performance (and optional quantities or periods).
- (7) Method and place of inspection and acceptance.
- (8) List of Government furnished property or information.
- (9) First article testing requirements.
- (10) Federal standards that must be met, e.g., energy, environment, health, and safety.
- (11) Physical, personnel, and information system security requirements.
- (12) Position Designation Record OPM Position Designation Automated Tool (PDT).
- (13) Classified information or sensitive unclassified information handling requirements.
- (14) Requirement for vendor's descriptive literature or product samples.
- (15) Brand name or equal or brand name mandatory justification.
- (16) Warranty requirements which are over and above generally accepted warranty included with the purchase of an item/service.
- (17) Liquidated damages justification.
- (18) Requirement for value engineering provisions.
- (19) Privacy Act compliance determination.
- (20) Section 508 Rehabilitation Act determination of non-availability or undue burden.

- (21) Reprocurement data requirements, spare/repair parts lists, or other special rights.
- (22) Information about use of existing patents or copyrights.
- (23) Performance or payment bond requirements.
- (24) Requirement for insurance coverage or special indemnification.
- (25) Support services labor categories and description of minimum qualifications.
- (26) Requirement for key personnel clause.
- (27) Requirement for Government consent to subcontracting clause.
- (28) Personal services justification.
- (29) Single source justification.
- (30) CFO approval- Over \$10 million (Note: The contracting office may accept a PR that lacks the CFO approval for applicable procurements over \$10 million; however, the CFO approval must be received by the CO prior to the issuance of the Request for Offer (RFO)).
- (31) Chief Information Officer's approval for information technology over \$250,000.
- (32) Draft technical evaluation factors.
- (33) Draft technical proposal instructions.
- (34) Requirements for earned value management system, reports, and integrated baseline reviews.

(e) Real Property. For real property PR packages, the requisition should also include the name, address and telephone number of the property owner (or his/her representative), if known, and a record of any and all contact(s) with the owner/representative. Contact with an owner/representative should only be made by the CO. At a minimum, requirements for real property should specify the type of requirement and contain the information described below.

- (1) Land Acquisition (Purchase or Lease). For such acquisitions, the PR package should include information for the CO to begin the acquisition process. Items for any new or renewal lease action include:
 - (a) Statement of Need, if applicable.
 - (b) The projected life of a facility or property for land (total term requirement for real property).
 - (c) Intended use of property (e.g., VASI, REIL, VORTAC, ARSR, ASR), and amount and type of all required restrictive or other easements (e.g., 750, 1000, 1200 or 1500- foot radius; trees removed to XX feet).
 - (d) The legal description of the site and easements, expressed either in meters and bounds or as

required by local land registries. If a legal description is not available, a legal description can be requested by a separate requisition transmitted to the CO.

(e) Drawings, to scale, of the property(ies) to be acquired, if available.

(f) Clearances. Environmental clearances, as follows:

- i. A statement that due diligence has been performed according to the requirements of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and FAA Order 1050.19C, Environmental Due Diligence (EDD) in the Conduct of FAA Real Property Transactions. The CO receives the final, signed EDD and places a copy of the report in the real property transaction file. A copy of the EDD report should be included in the PR package, as well as a letter of acceptance of the report signed by the requiring service organization. The level of environmental due diligence required varies depending on the specifics of each real property transaction.
- ii. If the site is contaminated with hazardous material, the PR package should include a cost/benefit analysis and a statement of justification signed by the requiring service organization.

(2) Space Acquisition (Purchase or Lease). For space acquisitions, the PR package, at a minimum, should include the following information for the CO to begin the space acquisition process:

(a) Statement of Need, if applicable.

(b) Environmental Documentation.

(c) The intended use of the space (e.g., AFS, FSDO).

(d) A five-year projected staffing chart including the number of authorized positions, by job title, which will use the space. Any projected staffing increases must be validated by the requiring service organization.

(e) Union coordination document, if applicable.

(f) A statement of one-time costs broken out by line item, if applicable.

(g) Special Requirements. These include, but are not limited to:

- i. Authorized private offices;
- ii. Wiring for data lines;
- iii. 24-hour access;
- iv. HVAC requirements;
- v. Temperature and humidity level limits;
- vi. Local Area Network (LAN) rooms;
- vii. Computer Based Instruction (CBI) rooms;
- viii. Written examination room;
- ix. Cleaning/Janitorial Requirements;
- x. Floor loads and types;
- xi. Antennas attached to roof;
- xii. Special finishes.
- xiii. Facility Security Requirements
- xiv. Loading docks and other special equipment areas; and

- xv. Special areas required by Bargaining Unit Agreements.
 - (h) Vehicle parking requirements (For vehicle parking requirements, the service organizations must adhere to requirements established in FAA Order 1600.69 (FAA Facility Security Management Program), Uniform Federal Accessibility Standards (UFAS), and the Americans with Disabilities Act (ADA);
 - (i) Recommended total lease term (base lease term plus renewal option(s));
 - (j) Delineated area and map depicting the area.
- (3) Space Alterations/Improvements/Repairs (AIR). For this, the PR package should include:
- (a) A full narrative description of work to be accomplished, supported by a clear sketch or drawing of proposed AIR; and
 - (b) Other related items, as stated for Space Acquisitions in paragraph T3.2.1.A.2.e(2).
 - (c) A description of how the cost of the improvements will be realized over the term of the lease.
 - (d) Independent Government Cost Estimate.
 - (e) Space Planner/Project Manager.
- (4) Construction. For construction, the PR package should include:
- (a) Real Property Interest.
 - i. For Real Property Land Interests. When a land lease or purchase is involved, the PR package should include a statement from the real property CO that such lease or purchase has been completed. In rare circumstances, if there is written assurance the property owner will provide real property rights and/or the property owner provides a written right of entry to begin construction, the PR may be processed.
 - ii. For Real Property Space Interests. For construction, modification, alteration, and/or repair to a leased space or building, the requiring service organization should coordinate with the contracting office involved in such leased space actions. The PR package should:
 - a. Contain a statement from the CO that approval from the property owner has been secured and the lease amended to cover FAA's requirements; and
 - b. Comply with all applicable requirements set forth in e(1)c and e(1)d above.
 - (b) Environmental Considerations. A statement certifying that all current requirements for Environmental Due Diligence have been met. (See paragraph e(1)f above on environmental clearances.)
 - (c) Utility Requirements. If the requirement involves changes to the location or service of utilities, the PR package must state the status of obtaining utility service and the estimated date of its availability to the project. (See paragraph g below on utilities.)
 - (d) Vehicle or Pedestrian Safety. If the requirement affects the traffic or safety of vehicles or pedestrians on the right-of-way of a public highway, road, or street owned by a governmental

body other than the Federal Government, the PR package must include a statement to that effect and identify the governmental body which owns the highway, road, or street.

(5) Utilities. The PR package, at a minimum, should contain information sufficient to enable the CO to determine the required type(s) of service, quantity, delivery point(s), time of initial service, service duration, and the principal characteristics of services. At a minimum, the PR should include the following:

(a) Public Utilities. At a minimum, the PR package should contain the following:

- i. Funding for the initial installation (F&E) and for the ongoing operations at the site (OPS).
- ii. Technical description or specification of the type, quantity, and quality of service required;
- iii. Date by which the service is required;
- iv. Existing Meter Numbers, if applicable;
- v. Estimated maximum demand, monthly consumption, and annual cost for the first full 12 months of service;
- vi. Schematic diagram or line drawing showing meter locations and Government connection point to utility supplier's system;
- vii. Estimated cost, including: required utility services, any connection charges; and contractor installed facilities for replacement utility services; and
- viii. Principal characteristics of service specifications. As a minimum, descriptions of the premises, or location to be served, in sufficient detail to clearly establish its identity by agency, function and address, as well as the service delivery point, and an attached map or drawing showing its exact location.

(b) Electrical Service Specifications. The PR package should contain:

- i. Monthly kilowatt hour (kWh) demand for a typical year;
- ii. Monthly kilowatt-hour (kWh) consumption for a typical year;
- iii. Type of current (AC or DC);
- iv. Number of phases;
- v. Anticipated load factor;
- vi. Substation primary and secondary voltages, and allowable variations or tolerances; and
- vii. Type of metering: (1) demand and/or watt hours, (2) kilovolt-amperes (kva) or kilowatts

(kW).

(c) Water Service Specifications. The PR package should contain:

- i. The required pressure and type(s) of water required (e.g., potable water, industrial water, classified as to extent of required filtration or chemical treatment; or raw water [river, lake, well, etc.]); and
- ii. Exact location of connection with utility firm's distribution system.

(d) Gas Service Specifications. These specifications should state the supplier's tariff. They should describe the desired British Thermal Unit (BTU) content, the purity, and the initial and terminal pressure limitations. They should also include:

- i. The estimated maximum demand per hour or per day;
- ii. The estimated monthly usage of gas, by months, for a typical year; and
- iii. The exact location of connection with utility firm's distribution system.

(e) Sewer Service Specifications. These should specify the types of service required (e.g. sanitary with primary or secondary treatment, or raw waste disposal; industrial waste disposal; or storm water drainage). They should also include:

- i. The size(s) and location(s) of connections between Government and contractor systems; and
- ii. The exact location of connection with the utility firm's distribution system.

3 Review by Chief Information Officer Revised ~~1/2021~~9/2021

a. The Chief Information Officer (CIO) must review and approve proposed procurement actions for information technology and service resources that are estimated to exceed \$250,000 and would result in a new or modified:

- (1) Contract;
- (2) Order, such as those issued through a Federal Supply Schedule (FSS); or
- (3) Agreement, to include interagency and intra-agency agreements.

b. *Information Resources.*

- (1) Equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the FAA.

(2) Information resources include:

- (a) Services (including support services):
- (b) Computers;
- (c) Ancillary equipment;
- (d) Software (including Software as a Service [SaaS]); and
- (e) Firmware and similar procedures.

(3) Information resources do not include any equipment that is acquired by a Federal contractor incidental to a Federal contract.

c. Review Process.

(1) Procurement actions initiated by the Office of Information & Technology (AIT) that commit only funding allocated to AIT are under the direction and oversight of the Deputy Assistant Administrator for AIT and CIO. Such procurement actions fully comply with the requirements and goals of the CIO Review Process. Therefore, this CIO Review Process has been satisfied for such AIT procurement actions, and additional documentation is not required.

(2) For those proposed procurement actions for information technology and service resources that originate from Lines of Business other than AIT, or use funding that is not included in the AIT budget allocation, that are estimated to exceed \$250,000, the requiring service organization official must submit the following information to the CIO Review Team Mailbox at 9-CIO-Review@faa.gov:

- (a) For Contractor Support or Technical Services:
 - (i) Statement of Work or requirements documentation
 - (ii) Cost or price information, to include an Independent Government Cost Estimate (IGCE)
 - (iii) Documentation of market research conducted, if applicable
 - (iv) CFO or SCRB II Business Case, if applicable
 - (v) CFO or SCRB II Signature Page, if applicable
 - (vi) Completed CIO IT Procurement Review and Approval Form

To minimize the amount of acquisition sensitive information released to members of the CIO IT Procurement Review Team, each document (SOW, IGCE, Business Case, and Signature Page) must be sent as a separate attachment in one email so that the reviewers will only have access to the applicable document related to their area of expertise.

(b) For Hardware and/or Software Purchases:

(i) Documentation of market research conducted and analysis in support of an IGCE, unless using an existing contract vehicle

(ii) Completed CIO IT Procurement Review and Approval Form

The CIO IT Procurement Review and Approval Form is in AMS Procurement ~~Forms~~ Templates. Note: There is a section on the Form to address Bandwidth Impact. The link to the National Bandwidth Upgrade Program (NBUP) is as follows: <https://my.faa.gov/go/bandwidth> . The NBUP's mailbox address for questions and comments is as follows: 9-AWA-ATO-FTI-REQ@FAA.GOV.)

(3) Once approved by the CIO, the program official may then prepare the requisition.

(4) Prior to submission of the requisition to the contracting office, the program office must note the date of the CIO's approval in the body of the requisition.

d. *Goals of CIO Review.*

(1) Ensure that goals of the FAA Flight Plan are addressed in procurements involving information resources.

(2) Prevent redundant procurements.

(3) Ensure that the resource is compatible with the FAA's current or planned Enterprise Architecture.

(4) Ensure that information technology resources support FAA Business Processes.

(5) Promote and ensure information security and privacy.

(6) Identify potential savings or efficiencies.

e. For more information on the process and access to updated templates, forms, and guidance, please refer to https://my.faa.gov/org/staffoffices/afn/information/CIO_Review_Process.html.

5 Procurement System-Generated Requisition Revised 9/2020

(a) A requisition provides basic information, such as appropriation data, item description, place of performance, and quantity/dollars needed to begin a procurement action. It is also the means of reserving funds for the procurement. Requiring service organization must prepare requisitions in the Procurement System, the FAA's automated requisitioning and purchasing system. Contracting offices cannot accept manually prepared Form DOT F-4200.1, "Procurement Request," equivalent hard copy PR forms, or manually signed Procurement System-generated forms.

(b) *Electronic Routing.* Requisition review, funds certification, and approval are through electronic routing in the Procurement System and have the same force and effect as manual signatures.

(c) *Requisition Control and Numbering.* The functionality of the Procurement System governs requisition numbering in accordance with AMS Procurement Guidance T3.13.1. Refer to the Procurement System business process solution "Award Types and Procurement System Document Numbering Masks" for further information.

(d) *Requisition Amendment/Modification.* If additional funds are needed, the requiring service organization should either issue an amendment to the requisition prior to an award being released or should create a requisition for modification after the award is released. Funds certification, review and approval are required for either an amendment or requisition for modification. When the amount obligated for the contractual action is less than the amount funded on the requisition, the requiring service organization must de-commit excess funds. Because the original purpose of the requisition is considered complete, the requisition cannot later be amended to use the remaining funds either for the original purpose or for another purpose.

(e) *Canceling a Requisition.* Requiring service organization may cancel a requisition prior to award by creating an amendment to de-commit funding.

(f) *Funds Estimate.* The requisition must indicate the total estimated cost of the requirement. For basic requisitions for new contracts, this includes the estimated amount of the basic contract and all planned options and any other requirements that would not be included in or funded as part of the basic contract. For contract modifications, this amount will be the total estimated cost of the action involved. For requisition amendments and requisition for modifications, whether for new contracts or modifications, the estimated amount will be the net amount of any change to the estimate stated in the basic requisition, and in addition to the net amount, identify in the body of the requisition the cumulative total estimated cost.

(g) *Required Quantity.* This is the FAA's need, present and projected, for which funding is or will be available. Quantity discounts and transportation costs must be considered when determining required quantity of supplies. Quantities should not include those for which there are no funded requirements, or for options for which FAA has little expectation of exercising. For Indefinite Delivery/Indefinite Quantity (ID/IQ) contracts, identify realistic minimum and maximum quantities. For ID/IQ contracts, the total estimated dollar amount for the requisition should be based on the total estimated quantity. The dollar amount on the requisition should cover the minimum quantity.

(h) For detailed instructions on preparing a requisition, the requiring service organization should refer to the Procurement System Requisitioner Guide and Business Processes and Policy, available on the Procurement System website (FAA only).

(i) All PR's for Real Estate and Utilities Actions must have the Suffix "RE".

6 Funds Certification Revised 9/2020

a. The requisition must include funds certification if it commits funds to be obligated later on a contractual instrument. Funds certification verifies funds are reserved and certified as available, or funds are to be de-obligated on an award or de-committed on a requisition. Funds need not be certified on individual requisitions when "bulk funding" is used for Blanket Purchase Agreements (BPA).

b. The person certifying funds must be designated in writing in accordance with written procedures of the organization issuing the requisition, and must be instructed by that organization on his or her responsibilities, duties and authority limits.

c. An authorized requisitioner may also certify funds when local conditions, such as remoteness or a small facility, make it necessary, *provided*: written local procedures authorize this practice and establish reasonable maximum dollar levels for combined funds certification and approval or requisitioning authority, and include monitoring and oversight procedures to ensure propriety of all such actions.

d. Additional guidance and related business processes for funds certification can be found at the [Procurement System website](#) (FAA only).

7 Requisition Approval Levels Revised 9/2020

a. Only designated FAA employees can approve a requisition. Approval levels are tied to the total estimated amount of the requisition to be approved, as follows:

(1) Washington Headquarters Requisitions

(a) Over \$500,000--Office Head, Director, Product or Service Team Lead, or equivalent or higher position.

(b) Over \$250,000 to \$500,000--Division Manager or equivalent position. (c) Up to \$250,000--Branch Manager or equivalent position.

For Washington Headquarters, an Office Head, Director, Product or Service Team Lead, or equivalent position, as applicable, may delegate via memorandum approval levels differing from the above.

(2) *Service Areas, Regions, and Centers Requisitions.* Organizations approving requisitions within service areas, regions, and centers may establish written requisition approval levels. Requiring service organization should contact their local finance office for information about approval levels.

(3) *Real Property Requisitions.* The requiring service organization or equivalent or higher position approves all FAA Washington Headquarters, service areas, regions, and centers for real property requisitions. For real property requisitions, the APM-210 Branch Manager may delegate, via memorandum, approval levels based upon certain thresholds.

b. Key duties and responsibilities for requisitioners, fund certifiers, approving officials, and those obligating funds (i.e. COs or others with delegated procurement authority) must be separated among individuals. Due to local conditions, some duties may need to be provided by the same individual; however, the following conditions will always apply in the processing of a requisition:

(1) An individual must never perform all duties;

(2) A requisitioner may be the fund certifier for the same requisition;

(3) The approving official and the fund certifier for any requisition must be separate individuals;

(4) A requisitioner must not be the approving official and/or CO for the same requisition; and

(5) A CO must never be the approving official or requisitioner for the same requisition.

c. Requisition approvers should refer to Procurement System guidance and business processes found at the [Procurement System website](#) (FAA only).

8 Describing Requirements Revised 9/2020

a. *Technical Description.* An accurate technical description of the requirement is a critical element of a PR package and key to ensuring FAA's needs are satisfied. The requiring service organization prepares, to the extent possible, a comprehensive statement of work, specifications, drawings or other description of the product, service, or real property to avoid any misinterpretation by prospective vendors about the FAA's requirements. The technical description defines valid and minimum needs of the FAA, and is not written in a way that unduly restricts competition. See AMS Procurement Guidance T3.2.2.8, "Describing Needs" for additional information.

(1) *Supplies or Equipment.* For supplies or equipment, the description should cover as wide a range of commercially available and proven products as possible. It should avoid requirements for special manufacture, or requirements that may unnecessarily restrict competition. In this way, a broad competitive base will be possible, prices will be held to a minimum, and good relations with offerors will be promoted.

(2) *Services*. For services to be performed in accordance with a statement of work (SOW), the SOW addresses:

- (a) What is the contractor to do?
- (b) When is the contractor to perform the tasks?
- (c) Who (qualifications and experience) should perform the tasks?
- (d) Where are the tasks to be performed?

(3) *Real Property*. For real property acquisitions, the requirements should address the following:

- A. Special requirements and alternative solutions, where appropriate, are considered;
- B. The appropriate area of geographic consideration (i.e., delineated area); and
- C. FAA-mandated requirements, including but not limited to incorporating seismic safety, first consideration to rural areas, and sustainability/environmental/energy principles in the acquisition process, if practicable.

(4) *Space Acquisitions*. In developing requirements for space, the CO and the requiring service organization must use the guidelines from FAA Order 4665.4A Federal Aviation Administration (FAA) Administrative and Technical Space Standards. This order provides standards for the construction, reconfiguration and consolidation of administrative and technical spaces; promotes workforce mobility and workplace flexibility; and improves the Agency's space utilization rate. For space, the requiring office, at a minimum, must include the following requirements:

- A. Square footage;
- B. Type and Use of space;
- C. Space Location;
- D. Special Requirements;
- E. Number of personnel;
- F. Gender Breakdown;
- G. Parking;
- H. Delineated area; and
- I. Required Occupancy Date.

(5) *Land Acquisitions*. For land acquisitions, the requiring office, at a minimum, must include the following:

- A. Requirements for Improvements to the land, if any;
- B. Legal description;
- C. Title information; and
- D. Market survey/appraisal.

9 Independent Government Cost Estimate Revised 9/2020/2021

(a) An Independent Government Cost Estimate (IGCE) describes how much the FAA could reasonably expect to pay for needed supplies, services, construction, or real property. The IGCE is an internal Government estimate, supported by factual or reasoned data and documentation, and serves as: (1) the basis for reserving funds for the procurement action; (2) a method for comparing cost or price proposed by offerors; and (3) an objective basis for determining price reasonableness when only one offer is received in response to a solicitation. The requiring service organization prepares the IGCE.

(b) For products, services, or construction, an IGCE may ~~includes~~include a breakdown of major elements of cost, by category such as labor, material, equipment, subcontracts, travel, overhead, and profit. For real property acquisitions, an IGCE may include a breakdown of costs, by category such as operating costs, real estate taxes, parking, tenant improvements, and capital improvements.

(c) An IGCE is required for any anticipated procurement action (to include modifications) whose total estimated value is \$150,000 or more, except for:

- (1) Modifications exercising priced options or providing incremental funding; or
- (2) Delivery orders for priced services or supplies under an indefinite-delivery contract.

(d) The CO may require an IGCE for those procurement actions (to include modifications) anticipated to be less than \$150,000.

(e) The estimate and supporting documentation is for internal use only. It should be made available only on a need to know basis and must not be provided to any potential offeror. (For additional information on IGCE, see AMS Procurement Guidance T.3.2.3.A.2 "Cost and Price Methodology"["IGCE Handbook"](#) and "FAA Pricing Handbook" [located in Procurement Tools and Resources](#) for detailed information about preparing an IGCE for products and services).

10 PR Package Clearances, Justifications and Other Documentation Revised 9/2020

The requiring service organization furnishes evidence of certain required clearances, approvals, and justifications with the PR package. This information varies, depending on the nature of the requirement, procurement strategy, and dollar value. The requiring service organization should consult with the CO to determine applicability of each of the below clearances, documentation, and approvals to the particular requirement. Documentation or other evidence for the below forms part of the PR package (the below is not all inclusive nor will it apply to each procurement action):

(a) *Chief Financial Officer Approval*. For a single or cumulative expenditure over \$10M, the CO must receive evidence of the Chief Financial Officer's (CFO) approval of the procurement prior to issuing a

Request for Offer (RFO). (See AMS Procurement Guidance T3.2.1.4, "Chief Financial Officer Requirements" for additional information.)

(b) *Accountable Personal Property*. FAA's financial standards and annual audit require accurate recording of personal property acquisitions. Before creating a requisition in Procurement System, the requiring service organization must establish appropriate projects and tasks in the DELPHI Project Accounting (PA) module. Each line item on a requisition must have at least one (but can have more than one) project and task associated with it. The CO will use the line item structure contained in the requisition when setting up the Contract Line Item Number (CLIN) structure.

(c) *Government Furnished Property, Information, or Material*. The PR package identifies Government property, information, or material. FAA property is managed, transferred, and added to FAA records through the Automated Inventory Tracking System (AITS). Any special restrictions or conditions, such as property provided "as is" security issues, or special handling should also be specified in the PR package.

(d) *Personal Property from Commercial Sources*. Before initiating a requisition to obtain personal property, requiring service organization must determine if the property is available for reuse from an FAA or other Government source, as required by FAA Order 4600.27C (September 4, 2015) and the FAA Reutilization and Disposition Process & Procedure Guide at https://my.faa.gov/content/dam/myfaa/org/staffoffices/afn/regions_center/materiel_personal_property/process/Reutilization-and-Disposition-Process-Procedures-Guide.pdf (FAA only), dated August 2018.

(e) *Project Materiel*. Materiel for projects is requisitioned through the Logistics and Inventory System (LIS) Project Materiel Management System (PMMS).

(f) *Section 508 of the Rehabilitation Act*. Acquisition of electronic and information technology (EIT) must comply with Section 508 requirements for accessibility. The requiring service organization must document EIT non-availability, including market research performed and standards that cannot be met. For further information, see AMS Procurement Guidance T3.2.2 "Source Selection," or the FAA [Section 508 website](#) (FAA only).

(g) *Personnel Security*. For individuals that may need access to FAA facilities, sensitive unclassified information, or resources, the contract security clause contains sufficient language to meet that objective. For specific guidance and regulations, see the applicable personnel security orders (FAA Order 1600.1E Personnel Security Program and FAA Order 1600.72A Contractor and Industrial Security Program). The Office of Personnel Management's Position Designation Automated Tool is used by the Operating Office to make initial position risk/sensitivity level designations based on the initial list of positions and the statement of work.

(h) *Sensitive Unclassified Information*. The requiring service organization must coordinate with the local FAA Servicing Security Element (SSE) for the minimum standards to mark, store, control, transmit, and destroy Sensitive Unclassified Information, For Official Use Only, Sensitive Security Information, or unclassified information that may be withheld from public release. (See FAA Order 1600.75 or AMS Procurement Guidance T3.14.1, "Security" for additional information.)

(i) *Classified Information*. The PR package should identify any requirements for handling of classified materials or for access of contractor personnel to classified information. (See FAA Order 1600.2E Safeguarding Classified National Security Information for additional information).

(j) *Information Security*. The FAA must ensure that all information systems are protected from threats to integrity, availability, and confidentiality. (See FAA Order 1370.121 FAA Information Security and Privacy Program & Policy for additional information.)

(k) *Paperwork Reduction Act*. The FAA must obtain approval to collect information through questionnaires, focus groups, telephone surveys, applications, performance reports, customer satisfaction surveys, studies and evaluations, interviews, forms, and other means of requesting information from 10 or more respondents. The requiring service organization must first coordinate requirements through the FAA Information Clearance Officer (AIT-20), and then obtain clearance from Office of Management and Budget (OMB).

(l) *Privacy Act*. When a requirement involves the design, development, and/or operation of a system of records on individuals for an FAA function, the statement of work must identify FAA rules and regulations implementing the Privacy Act. (See FAA Order 1370.121; FAA Information Security and Privacy Program & Policy.)

(m) *Printing or Duplicating or Purchase or Lease of Copying Equipment*. For printing or duplicating services to be performed either by Government Printing Office (GPO) or outside printing businesses, requiring service organization must coordinate with the cognizant FAA printing management office. Purchase or lease of duplicators or electronic copiers over \$100,000 must be approved: for Headquarters acquisitions, coordinate with the Corporate Information Division (ABA-10); Region, Center and Service Area acquisitions, coordinate with the servicing printing management organization.

(n) *NAS Specifications*. Specifications for acquisitions under the Capital Improvement Program (CIP) are baselined and under configuration control. A requisition for NAS program specification change must include evidence of approval by the NAS Configuration Control Board.

(o) *Options*. If options are to be included, the PR package should state the basis for evaluating offeror proposals. The PR package should indicate whether it is expected that offers will be evaluated for award purposes only on the basis of the price for the basic requirement exclusive of options, or price inclusive of options.

(p) *Warranty*. Warranties should be cost beneficial. For other than standard commercial warranty generally accepted as included with basic purchase price, the PR package should include an analysis of the costs of a warranty and its administration, versus the benefits of liability deferral.

(q) *Liquidated Damages*. Before liquidated damages provisions may be included in a contract, the requiring service organization must adequately justify and document the basis for amounts to be assessed.

(r) *Brand Name Products*. When a brand name or equal description is used, the PR package must state the brand name product and salient physical, functional, performance, and interoperability or interface characteristics of the brand name product so that vendors may offer alternative but equal products. Brand name-mandatory descriptions identify a specific make, model, or catalog number, and manufacturer of a product. This type of description differs from brand name or equal because vendors may not provide an equal item. For brand name-mandatory, a single source justification is required with the PR package. (See AMS Procurement Guidance T3.2.2.8, "Describing Needs" for more information.)

(s) *Recovered Materials*. Requiring service organizations are responsible for defining product specifications, utilizing FAA's minimum content standards or preference standards, when procuring EPA- designated items. The requiring service organization should provide a written determination certifying that the statement of work/specifications for materials/services specified complies with the FAA's preference standards for recovered materials. (See AMS Procurement Guidance T3.6.3, "Environment, Conservation and Energy" for additional information.)

(t) *Recycled Content*. Purchases of EPA-designated recycled content products must meet or exceed EPA guideline standards, unless price, performance, or availability justifies not doing so. The requiring service organization should document this determination. (See AMS Procurement Guidance T3.6.3 "Environment, Conservation and Energy" for additional information.)

(u) *Capital Versus Non-Capital Lease Determination*. The FAA is required to capitalize certain improvements in both owned and leased space. In addition, the FAA (to include the Operating Office, CO, and accounting) is required to make a determination as to whether leases (including real property leases) are capital or operating leases and insure they are recorded and filed accordingly.

(v) *Personal Services*. Personal services contracts are permissible if appropriately justified and approved by senior management. The PR package must include evidence of this approval. (See AMS Procurement Guidance T3.8.2, "Service Contracting" for more information.)

(w) *Single Source Justification*. When in the FAA's best interests, a single source procurement may be appropriate. The requiring service organization should prepare a justification documenting the rational basis for using a single vendor. (See AMS Procurement Guidance T3.2.2.4, "Single Source".)

(x) *Technical Evaluation Factors/Plan*. Technical evaluation factors must be approved before issuing a solicitation. The requiring service organization must provide the factors and plan for evaluating technical proposals.

(y) *Earned Value Management System (EVMS)*. An Earned Value Management System (EVMS) is required for projects involving development, modernization, or enhancement estimated at \$10M or more. Requiring service organization should consult with the FAA's EVM Focal Point (AAP-200) to determine appropriate EVMS certification, review, and reporting requirements. (See AMS "Earned Value Management Guide" for additional information.)

11 Simplified Purchases Revised 7/2007

a. Purchase Cards. When a requisition is used as the funding document for purchase card purchases, it must contain certification of availability of funds. (See AMS Procurement Guidance T3.2.2.5 "Commercial and Simplified Purchase Method" for additional information.)

b. Blanket Purchase Agreement (BPA). A requisition may be issued for a basic BPA, but is not necessary for individual orders (termed "calls") against the BPA. One or more BPAs may be established in response to a requisition. The requisition identifies types of supplies or services to be purchased under the BPA, suggested sources of supply, estimated grand total and individual call dollar limitations, and person(s) to be authorized by the CO to make purchases. BPA calls serve as the obligating documents and a requisition will be required to issue the first call. If the BPA call is funded for a period of less than one year, a requisition for modification will be required to increase the funding.

12 Conference Space or Short Term Leases Revised 9/2020

(a) *Headquarters.* Requirements for short-term lease, or rental, of conference space, must be coordinated with the contracting office and AGC-530. The results of this coordination must be indicated on the requisition or an attachment. Requirements for the long-term lease of other space (e.g., office, storage or special purpose), in commercial establishments in the Washington, D.C. metropolitan area, and requests for any GSA acquired space should be coordinated through APM-200.

(b) *Regions and Centers.* Requirements for short-term lease of conference space not acquired through a purchase card should be coordinated through the contracting office and AGC-530. The results of that coordination must be indicated in the requisition or an attachment.

(c) All conference space must comply with the standard operating procedures (SOPs) specified by the Office of Financial Analysis. (See AMS Guidance T3.2.2.4.A.5 FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops).

13 Logistics Center Supply Support Revised 9/2020

Supply Support Program requirements are processed using the Logistics Center Support System (LCSS) at the FAA Logistics Center. Requisitioning through LIS, coordination, review, certification, and approval signature are completed electronically.

14 Reserved Revised 9/2020

15 Reserved Revised 9/2020

16 Liquidated Damages Revised 9/2020

a. Liquidated damages clauses should be used only when (1) the time of completion, performance, or

delivery is such an important factor in the award of the contract that the FAA may reasonably expect to suffer damage if the completion, performance, or delivery is delinquent; and (2) the extent or amount of actual damage sustained by the FAA would be difficult or impossible to calculate or prove. In deciding whether to include a liquidated damages clause in the SIR/contract, the procurement team should consider the probable effect of that clause on other issues such as contract price, competition, and the cost or difficulties of contract administration. The rates of liquidated damages must be reasonable and based on probable actual damages to the FAA. Liquidated damages assessed without consideration of actual costs are penalties, and are thus unenforceable.

- b. When administering contracts that include a liquidated damages clause, the CO must take all reasonable steps to notify contractors of the pending assessment when the concern about late completion, performance, or delivery first develops. If a basis for termination for default exists, the CO must advise the contractor that it may be liable for liquidated damages assessed until the date of termination, in addition to reprocurement costs. If completion, performance, or delivery is desired after termination for default, efforts must be made to obtain completion, performance, or delivery elsewhere within a reasonable time.
- c. *Construction.* Liquidated damages for construction contracts are assessed on a per project basis. The liquidated damages rate must be determined by the procurement team and documented by the requiring service organization, and must, at a minimum, cover the estimated cost of contract administration, including inspection, for each day of delay in completion. In addition, other specific losses anticipated to be incurred as a direct result of the failure of the contractor to complete the work on time must be included. Examples of specific losses are:
 - (1) Additional inspection costs;
 - (2) The costs of substitute facilities;
 - (3) The rental of buildings; and
 - (4) The costs of FAA crews, or hourly paid contract employees, forced on standby.

When different completion dates are specified in the contract for separate parts or stages of the work (i.e., milestones), the CO may revise the liquidated damages clause to state the amount of liquidated damages for the late completion of each milestone. Separate calculation and documentation of the estimated damages must be developed for each amount specified with a differing basis.

- d. The requiring service organization must document the basis for the assessment rate for liquidated damages. This documentation must describe the assumptions, data, and formula used to derive the rate of assessment.

17 Returning a Deficient PR Package Revised 9/2020

(a) The CO may return a deficient PR package without action, or stop work on a pending PR package until the requiring service organization submits any needed supplemental information. Examples of reasons for returning or stopping work on a deficient PR package include:

- (1) Incomplete or conflicting information between the requisition, specifications, drawings, or other solicitation data;
- (2) Unstable requirements due to repeated technical changes to functional capability, reliability, maintainability, quality control, or testing requirements;
- (3) Failure to include the appropriate stock number or item code, facility type code, and other required data applicable to each accountable item listed; or
- (4) Missing or improper funding citation.
- (5) Failure to include required environmental documentation.
- (6) Failure to provide Single Source Justification or other exception documentation as described in AMS Procurement Guidance T3.2.2.4, "Single Source."
- (7) Failure to obtain appropriate approvals from the Program Office for new Space Lease Requirements.
- (8) Failure to provide documentation of appropriate coordination between Security, Bargaining Units, Project Management/Space Planners, CFO approvals, etc.

(b) In Washington Headquarters, the CO should return a deficient PR package by memorandum, signed by a Contracts Division branch manager, to the approver of the requisition. The memorandum should include a brief explanation of deficiencies.

(c) In Service Areas, Regions and Centers, COs should return PR packages in accordance with local procedures.

18 Approval of Multiple Award Procurement Programs Revised 9/2020

a. *Documentation.* Before any FAA requiring service organization establishes a new multiple-award procurement program, it must document the program's benefit, administrative costs, methodology of any service fees, span of use, ordering procedures, and internal oversight mechanisms.

b. *Approval Authority.* Written approval, based on potential size, complexity, and scope of aggregate needs, is also required before an FAA organization may begin any activity to establish a multiple award procurement program, as follows:

- (1) Joint Resources Council (JRC) approves any multiple award procurement program that is

part of the procurement strategy for an investment program subject to JRC approval. The justification for the procurement program is described in the Integrated Strategy and Planning Document, and is approved by the JRC at the final investment decision.

(2) FAA Acquisition Executive approves any multiple award procurement program to include multiple award contracts, qualified vendors list, or blanket purchase agreement intended to satisfy recurring needs across more than one ATO service organization, ATO service area, or non-ATO service organization or staff office.

(3) Chief of the Contracting Office approves any multiple award procurement program intended to satisfy recurring needs of one ATO service organization, ATO service area, or non-ATO service organization or staff office.

c. *Notice Requirements.* The FAA organization establishing the multiple award procurement program must send a copy of the approved justification to the Director of Acquisition and Contracting at Headquarters.

d. *Considerations.*

(1) For multiple award contracts, the requiring service organization must develop an IGCE during the acquisition planning phase. The requiring service organization may consider its procurement needs, the anticipated use of FAA lines of businesses using the multiple award contract vehicle, market trends, commercial pricing data, and other historical information in developing the overall contract estimates.

(2) In the event that program support costs for a multiple award contract program are not provided for in the awarding requiring service organization's budget, the awarding requiring service organization may require service organizations or program offices that utilize the contract vehicle to pay a service fee. The service fee allows such users to proportionately share in the overall program management support costs of the contract vehicle. The service fee is determined based on the user's anticipated share of the contract services and the estimated program support costs to run the contract vehicle. The requiring service organization may consider its procurement needs, market trends, and historical data in estimating the program management costs to formulate the service fee. The awarding requiring service organization will establish the service fee annually post award and will adjust such fee accordingly based on contract usage and actual program support costs.

B Clauses

[view contract clauses](#)

C Procurement Forms Revised 7/2007 Added 9/2021

[view procurement forms](#)

Document Name

D Procurement Samples Added 9/2021

Document Name
Independent Government Cost Estimate Sample 1
Independent Government Cost Estimate Sample 2

E Procurement Templates Added 9/2021

Document Name
CIO IT Procurement Review and Approval Form
Procurement Planning for Other Than Simplified Acquisitions – Template A
Procurement Planning for Simplified Acquisitions – Template B

F Procurement Tools and Resources Added 9/2021

Document Name
IGCE Handbook
Pricing Handbook

G Appendix Added 9/2021

1 Estimated Acquisition Lead Time Chart

Note: The timeframes in this chart are estimated and purely for planning purposes only. As each FAA acquisition is unique and independent, the lead-time chart in no way obligates contracting offices to deliver in the timeframes below.

Action	Negotiated Competitive	Two-Step/ Multiple SIRs	Single Source (1)	SEDB/8(a) 2 Competitive	Within Scope Changes
Complete PR Package Received	Start	Start	Start	Start	Start
OSBD Acceptance	1 to 5	1 to 5	1 to 5	1 to 5	0
Market Analysis	5 to 30	5 to 30	5 to 30	5 to 30	5 to 15

<u>Announcement/Synopsis</u>	<u>10 to 30</u>	<u>10 to 30</u>	<u>10 to 30</u>	<u>10 to 30</u>	<u>0</u>
<u>CO Review Requirements/Draft SIR</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>1 to 10</u>
<u>SIR Review (Mgmt, Legal, etc)</u>	<u>10 to 15</u>	<u>15 to 20</u>	<u>10 to 15</u>	<u>10 to 15</u>	<u>10 to 15</u>
<u>SIR</u>	<u>30</u>	<u>60</u>	<u>10 to 30</u>	<u>10 to 30</u>	<u>0</u>
<u>Proposal/Quote/Technical Evaluation</u>	<u>5 to 15</u>	<u>10 to 30</u>	<u>5 to 15</u>	<u>5 to 15</u>	<u>5 to 15</u>
<u>Discussions</u>	<u>5 to 10</u>	<u>10 to 20</u>	<u>0</u>	<u>1 to 10</u>	<u>0</u>
<u>Negotiations</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>1 to 10</u>	<u>1 to 10</u>	<u>5 to 10</u>
<u>Responsibility Review</u>	<u>1 to 5</u>	<u>1 to 5</u>	<u>1 to 5</u>	<u>1 to 5</u>	<u>0</u>
<u>Award Decision Document</u>	<u>1 to 2</u>	<u>1 to 2</u>	<u>1 to 2</u>	<u>1 to 2</u>	<u>1 to 2</u>
<u>Contract Review (Legal, etc)</u>	<u>10 to 15</u>	<u>15 to 20</u>	<u>10 to 15</u>	<u>10 to 15</u>	<u>10 to 15</u>
<u>Award</u>	<u>Stop</u>	<u>Stop</u>	<u>Stop</u>	<u>Stop</u>	<u>Stop</u>
<u>Estimated Number of Calendar Days</u>	<u>88 to 177</u>	<u>138 to 242</u>	<u>59 to 167</u>	<u>60 to 177</u>	<u>37 to 82</u>
<u>Other Potential Schedule Impacts</u>	-	-	-	-	-
<u>CFO Review (2)</u>	<u>60</u>	<u>60</u>	<u>60</u>	<u>60</u>	<u>60</u>
<u>Acquisition Strategy Review Board (ASRB)</u>	<u>10 to 20</u>	<u>10 to 20</u>	<u>10 to 20</u>	<u>10 to 20</u>	<u>10 to 20</u>
<u>Public Affairs Notification >\$3.5M</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>2(3)</u>
<u>EEO Pre-Award Clearance (Other than Construction) >\$10M</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30</u>	<u>30(4)</u>
<u>Number of Calendar Days with Potential Schedule Impacts</u>	<u>190-289</u>	<u>240-354</u>	<u>161-279</u>	<u>162-289</u>	<u>139-194</u>

(1) Includes a single sources to socially and economically disadvantaged businesses (SEDB)/8(a) and

service-disabled veteran owned small businesses (SDVOSB)

(2) All acquisitions (e.g., contracts, interagency agreements, other transactions, etc.) over \$10 million require CFO approval. This includes modifications that increase the contract ceiling price over \$10 million or the authorized CFO ceiling limit as defined in AMS Procurement

Guidance section T3.2.1.4.

(3) Required only for mods over \$10M when the base was not originally coordinated

(4) Required if a mod increases the total contract value to \$10M or more

<u>Action</u>	<u>Administrative Mods</u>	<u>Simplified Purchase</u>	<u>Delivery/ Task Orders (Incl FSS)</u>	<u>Exercise Option</u>
<u>Complete PR Package Received</u>	<u>Start</u>	<u>Start</u>	<u>Start</u>	<u>Start</u>
<u>OSBD Acceptance</u>	<u>0</u>	<u>1 to 5</u>	<u>1 to 5</u>	<u>0</u>

<u>Market Analysis</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>
<u>Announcement/Synopsis</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>CO Review Requirements/Draft SIR</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>0</u>
<u>SIR Review (Mgmt, Legal, etc)</u>	<u>0</u>	<u>10 to 15</u>	<u>10 to 15</u>	<u>10 to 15</u>
<u>SIR</u>	<u>0</u>	<u>5 to 30</u>	<u>5 to 30</u>	<u>0</u>
<u>Proposal/Quote/Technical Evaluation</u>	<u>0</u>	<u>1 to 5</u>	<u>1 to 15</u>	<u>0</u>
<u>Discussions</u>	<u>0</u>	<u>1 to 2</u>	<u>1 to 10</u>	<u>0</u>
<u>Negotiations</u>	<u>0</u>	<u>1 to 3</u>	<u>1 to 10</u>	<u>5 to 10</u>
<u>Responsibility Review</u>	<u>0</u>	<u>1 to 2</u>	<u>1 to 2</u>	<u>0</u>
<u>Contract Review (Legal, etc)</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>	<u>5 to 10</u>
<u>Notification to contractor-Exercise of option</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>
<u>Award Decision Document</u>	<u>0</u>	<u>1 to 2</u>	<u>1 to 2</u>	<u>1 to 2</u>
<u>Award</u>	<u>Stop</u>	<u>Stop</u>	<u>Stop</u>	<u>Stop</u>
<u>Estimated Number of Calendar Days</u>	<u>15 to 30</u>	<u>36 to 94</u>	<u>36 to 119</u>	<u>56 to 77</u>